বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন

জীবন বীমা টাওয়ার (১৫, ১৬, ১৭ ও ২১তম তলা), ১০ দিলকুশা বা/এ, ঢাকা-১০০০, বাংলাদেশ।

নং-এসইসি/এনফোর্সমেন্ট/২১৮৮/২০১৪/৯৪ তারিখঃ ১৯ মার্চ ২০১৫ ইং

হুদা ভাসি চৌধুরী এন্ড কোং, চার্টার্ড একাউন্টেন্টস্, ন্যাশনাল অফিস, BTMC ভবন (লেভেল-৮), ৭-৯ কাওরান বাজার, ঢাকা-১২১৫

বিষয়: আদেশ।

কমিশনের ১৯ মার্চ ২০১৫ ইং তারিখের আদেশ নং-এসইসি/এনফোর্সমেন্ট/২১৮৮/২০১৪/৯৩ এর সত্যায়িত অনুলিপি আপনার অবগতি ও প্রয়োজনীয় ব্যবস্থা গ্রহনের জন্য এতদ্সংগে সংযুক্ত করা হলো।

বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশনের পক্ষে

মোহাম্মদ হোসেন খান
উপ-পরিচালক

বিতরনঃ

প্রধান নির্বাহী কর্মকর্তা, ঢাকা ষ্টক এক্সচেঞ্জ লিমিটেড
প্রধান নির্বাহী কর্মকর্তা, চট্টগ্রাম ষ্টক এক্সচেঞ্জ লিমিটেড

অবগতির জন্য অনুলিপি:

১। নির্বাহী পরিচালক, আইন, বিএসইসি
২। নির্বাহী পরিচালক, মিউচ্যুয়াল ফান্ড ও এস পিভি, বিএসইসি
৩। নির্বাহী পরিচালক, এমআইএস, বিএসইসি
৩। চেয়ারম্যান মহোদয়ের দপ্তর, বিএসইসি

নং-এসইসি/এনফোর্সমেন্ট/২১৮৮/২০১৪/ ৯৬ তারিখঃ ১৯ মার্চ ২০১৫ ইং

আদেশ

যেহেতু, কমিশন এর আদেশ নং BSEC/MF&SPV-MF-112/2013/02/636 dated June 24, 2014 এর মাধ্যমে একটি তদন্ত কমিটি গঠিত হয় এবং উক্ত তদন্ত কমিটির দাখিলকৃত প্রতিবেদন অনুযায়ী findings and contraventions নিম্নরূপ:

Quote

"---- **Under TOR 2:** ফান্ডের কোনো অর্থ আইন বহির্ভূতভাবে উত্তোলন/স্থানান্তর করা হয়েছে কিনা তা নিরীক্ষা করা

Findings #05: **LR Global is Charging a part of own "Office and Administrative Expenses" on the funds under its management contravening the Rules and without permission of the Commission.**

Opinion of LR Global:

According to letter of LR Global that ".....Office and Administrative Expenses were charged as per 6th Schedule, Attachment – 2(details of the Revenue account) of Securities and Exchange Commission (Mutual Fund) Rules, 2001 and approved by the Trustee as represented in all Audited Accounts of the Mutual Funds...."

Again, according to LR Global "............................Office & Administrative Expenses" were charged after reasonability checking and within the limit that we understood of the mutual fund on periodical basis (monthly/ quarterly/annually, as applicable) under following categories those directly impact the operations of the mutual funds and also allowing us to maintain proper investor records and serve the unit-holders related to on- going dividend distribution and redemption of the placement shares:

i. Salary & Allowances (employees who are directly involved with mutual fund operations),
ii. Investors Relation Office Expenses (rent, utility bills, maintenance charges, etc.),
iii. Bloomberg terminal fees (for NAV checking of the mutual fund portfolio),
iv. Software maintenance expenses (for daily fund operations)
v. Conveyance bills (for daily fund operations),
vi. Other expenses, if any (directly related with mutual fund operations) including CDBL connection/Internet expense....................."

Again, LR Global is charging all type of legal expenses to the fund though it is not directly related with the fund operation ;and in this regard a brief statement of all legal expenses are placed in the following table along with the opinion of LR Global :

".............Also please find enclosed list stating date-wise payment against legal expenses along with the supporting documents / invoices for each mutual fund. Since inception the legal expenses were made for the benefit of the unit-holders related to investment activities, clarifications and conflicts among legal documents, due diligence, brokerage agreements, evaluation of legal/offering documents, etc. services that are not available in-house........"

According to statement of Office & Administrative expenses charged on the funds since inception are placed in the following table:

বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন
জীবন বীমা টাওয়ার (১৫, ১৬, ১৭ ও ২১তম তলা), ১০ দিলকুশা বা/এ, ঢাকা-১০০০, বাংলাদেশ।

Fund wise Office and Administrative Expenses:

Amount in Taka

Fund	2010	2011	2012	2013	2014	Total
DBH MF	4,041,357	2,443,269	2,927,111	3,822,130	2,613,072	15,846,940
Green Delta MF	921,497	2,010,865	2,672,796	2,441,790	2,543,072	10,590,019
AIBL 1st MF		1,986,253	2,623,379	2,391,076	2,501,951	9,502,659
MBL 1st MF		1,950,424	2,620,206	2,471,016	2,501,951	9,543,597
LR GB MF		380,093	2,732,567	2,491,982	2,489,001	8,093,643
NCCBL MF			1,278,554	2,102,318	2,514,998	5,895,870
Total	**4,962,854**	**8,770,904**	**14,854,613**	**15,720,312**	**15,164,045**	**59,472,728**

Additionally fund wise legal expenses are also placed in the following table:
Fund wise Legal Expenses:

Amount in Taka

Fund	2012	2013	2014	Total
DBH First Mutual Fund		100,000	402,151	502,151
Green Delta Mutual Fund	100,000	100,000	402,151	602,151
AIBL 1st Islamic Mutual Fund		50,000	402,151	452,151
MBL 1st Mutual Fund	50,000	50,000	402,151	502,151
LR Global Bangladesh Mutual Fund One	100,000	100,000	402,151	602,151
NCCBL Mutual Fund-1	50,000	50,000	402,155	502,155
Total	**300,000**	**450,000**	**2,412,910**	**3,162,910**

Additionally, in the response letter of LR Global they mentioned as follows:

".......We have made these decisions with the best of intentions. These expenses were not more than 0.25% of the NAV of each mutual fund keeping the annual total expenses of the fund approximately 2.00% of the NAV of the fund (inclusive of all expenses) - within the limit of 4% of the NAV of the fund.

Regardless of our intentions, we realize now that we should have approached the honorable commission for the approval of the expenses instead. We earnestly request the Commission to instruct us in this regard for rectifying any issues that in your supreme authority you deem appropriate which may have been misunderstood in good faith.

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Regardless of our intentions, we realize now that we should have approached the honorable commission for the approval of the expenses instead. We earnestly request the Commission to instruct us in this regard for rectifying any issues that in your supreme authority you deem appropriate which may have been misunderstood in good faith.

We sincerely regret for not seeking clarification from the Honorable Commission since the inception of the funds. We sincerely hope the Honorable Commission will evaluate this with compassion and help us rectify issues that you deem appropriate....."

Background of Charging Office & Administrative Expenses and Clarification of the Parties:

It is to be mentionable here that Office & Administrative expenses are charged after taking opinion of the Auditor "Hoda Vasi Chowdhury & Co." but without any permission from the commission. The Trustee of the funds have also approved the Annual Accounts of the funds since long without taking any clarification/approval from the Commission in this regard. So, we sought clarification to Fund Manager, Auditor of the Fund and also the Trustee of the funds under management of LR Global.

Hence, in response to our letter of seeking clarification, LR Global replied among others as follows:

"Clarification regarding receipt of Auditors opinion from Hoda Vasi & Chowdhury & Co., we would like to inform you that the opinions were received from the said Auditor in good faith and for internal clarification and for our understanding back in 2010.

Subsequently, the opinion was also shared with the Trustee since inception of these fees. All our financial statements properly disclosed and itemized these expenses within the limit and Financial Statements were duly approved by the Trustee................................"

The Trustee of the funds "BGIC" clarified in their letter among others as: "...1. Trustee did not provide any written consent to LR Global Bangladesh Asset Management Company Ltd. to reimburse "Office & Administrative Expenses" from all the funds under their management. However, it is to be noted that based on the Professional advice of the Auditors received directly by the AMC and produced to us we approved the Annual Accounts of the Funds.

2. We would like to clarify that we as Trustee did not instruct or allow the Asset Manager to take any opinion from the Auditor, Hoda vasi Chowdhury & Co. about charging"Office & Administrative Expenses" from the funds. ....

.............in view of the above we have already instructed all the Asset Managers that charging of "Office & Administrative Expenses" is not permitted and have provided copies of our instruction letters to the esteemed Commission. "

Again the Audit firm "Hoda Vasi Chowdhury & Co." clarified their position in their letter among others as: "...........There is no restriction anywhere on providing professional opinions to the clients. Our professional advice should not be treated as legal opinion but as guiding principle to the clients as a practicing member quasi legal profession like Chartered Accountants. In our letter dated 20 May 2013, in the absence of any clear provision, our conclusion of the professional opinion was to obtain BSEC's written consent before charging and allocating a portion of Asset Management Company's expenses to the mutual funds account. ...."

বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন
জীবন বীমা টাওয়ার (১৫, ১৬, ১৭ ও ২১তম তলা), ১০ দিলকুশা বা/এ, ঢাকা-১০০০, বাংলাদেশ।

In this regard, we also sought opinion of the MF & SPV Department. The opinion of the Department among others are as under:

".....As per MF & SPV Department record, we found no such referrence where LR Global has taken approval from the Commission to charge "Office & Administrative Expenses" for the funds under its management or even no such information from the Trustee with the Commission in this reference.................."

Observation of Enquiry Committee:

About charging of Office & Administrative Expenses:

There is no provision as per Rule 65 of সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচ্যুয়াল ফান্ড) বিধিমালা, ২০০১ or in the Trust Deed or in any of the legal documents approved by the commission for any funds under Management of LR Global regarding allowing of charging aforementioned office & administrative expenses on the fund. As per Rules, AMC can only charge Management Fee and other allowable expenses as per Rule 65. If any expenses are required to be charged apart from provisions of Rule 65, AMC has to take prior approval from the Commission. But no such type of Communication is found with the Commission and also any explicit/implicit approval of the commission in this regard.

It is also mentionable here that **"Attachment 2"** of the Sixth Schedule of the Rules is merely a pro-forma of the income statement and as according to the pro-forma, presentation of the income and expenses of the mutual funds are required as according to the approved expenses. But if expense nature is not mentioned in the offer documents and/or approved by the commission, expenses cannot be incurred/charged by the fund manager of the fund unless otherwise approved by the Commission. Hence, charging expenses under "Office & Administrative Expenses" by LR Global are contravention of Rule 65 and relevant provision of Trust Deed. Even there is no provision of such Office & administrative Expenses in the prospectus format for the mutual funds given in the সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচ্যুয়াল ফান্ড) বিধিমালা, ২০০১. The Rule 65 of সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচ্যুয়াল ফান্ড) বিধিমালা, ২০০১ is in short as under:

৬৫। ব্যয়ের সীমাবদ্ধতা।- (১) সকল ব্যয় স্পষ্টরূপে চিহ্নিত এবং প্রত্যেকটি স্কীমে বন্টিত হইতে হইবে।

(২) নিম্নবর্ণিত সীমা সাপেক্ষে সম্পদ ব্যবস্থাপক মিউচ্যুয়াল ফান্ডের নিকট বিনিয়োগ ব্যবস্থাপনা ও উপদেষ্টা ফি, যাহা প্রসপেক্টাসে উল্লে-খ করা হইয়াছে, এবং উহার ব্যবস্থাপনাধীন বিভিন্ন মিউচ্যুয়াল ফান্ড ও.তার অধীনে ইস্যুকৃত স্কীমের নীট সম্পদের মোট পরিমানের উপর নিম্নবর্ণিত সীমা সাপেক্ষে দাবী করিতে পারিবে, যথাঃ-

....

তবে শর্ত থাকে যে, কমিশন বিশেষ ক্ষেত্রে উক্ত ফি এর হার বৃদ্ধি করিতে পারিবে:

আরও শর্ত থাকে যে, উল্লিখিত সকল ক্ষেত্রে পঞ্চম তফসিল [বিধি ৫৬ দ্রষ্টব্য] এ উল্লিখিত বিনিয়োগে বাধা-নিষেধ এর ক্রমিক নং ১০ পরিপালন করিতে হইবে।]

(৩) উপ-বিধি (২) এ উল্লি-খিত ফি ব্যতীত, সম্পদ ব্যবস্থাপক নিম্নবর্ণিত ব্যয়সমূহও মিউচ্যুয়াল ফান্ড হইতে আদায় করিতে পারিবে, যথাঃ-

(ক) মিউচ্যুয়াল ফান্ড ও উহার স্কীমসমূহের সূচনাকালে ব্যয়িত প্রাথমিক ইস্যু খরচের অবসায়ন (amortization) যাহা মেয়াদী ক্ষেত্রে পূর্ণ মেয়াদ এবং বেমেয়াদী ক্ষেত্রে সাত বৎসর সময়ের মধ্যে করিতে হইবেঃ

তবে শর্ত থাকে যে, প্রাথমিক ইস্যু খরচ কোন স্কীমের সংগৃহীত তহবিলের শতকরা পাঁচ ভাগের বেশী হইবে না, যাহার প্রক্কলিত খাতওয়ারী বিভাজন প্রসপেক্টাসে উল্লে-খ করিতে হইবে;

(খ) নিম্ন বর্ণিত ব্যয়সহ নিয়মিত ব্যয়সমূহ, যথাঃ-

(অ) ট্রাস্টি ও হেফাজতকারীকে প্রদত্ত ফি, ব্যাংক চার্জ, ব্রোকারেজ কমিশন, বিপণন ও বিক্রয় ব্যয়;

(আ) লিস্টিং ফি (প্রযোজ্য ক্ষেত্রে) ও ইউনিট সংক্রান্ত অন্যান্য খরচ।

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জীবন বীমা টাওয়ার (১৫, ১৬, ১৭ ও ২১তম তলা), ১০ দিলকুশা বা/এ, ঢাকা-১০০০, বাংলাদেশ।

Again, according to the voucher provided by the LR Global, we found that among others, partial/full of the following expenses of LR Global are reimbursed from the six Mutual funds under its management under Office & Administrative expenses:

i. Salary & Allowances
ii. MF Employee Bonus Expenses
iii. Software cost (Fixed Reimbursement)
iv. IRO (Investors Relation Office) Expenses (Includes Rent, Electricity bill, fresh water bill, & other expenses of IRO)
v. Internet Expenses
vi. Bill for legal an professional fees
vii. Other Expenses of Head Office (Includes Convenience, TNT, Mobile, stationery, entertainment expenses and others)
viii. Bloomberg terminal fees

About Charging of Legal Expenses:

It is also notable here that during 2012 to 2014 there was no new fund/scheme was launched. So, when we sought clarification about the legal expenses, and then we found that the LR Global Bangladesh Asset management Company Ltd. has taken Legal services from two Legal Advisors during 2013 to 2014 period namely "Sheikh & Company" and "Hasan & Associates" in its own name and without mentioning the services for any specific fund. The details of the information about the services we got from LR Global are as under:

Name of the Legal Firm	Date of Bill	Service Nature	Bill Amount	Comment of Committee
i. Sheikh & Company	07.09.2014	Preparing & Scrutinizing documents and conducting hearing and legal research about Mutual Funds	Tk17,00,000	In the bill no fund name is mentioned. Hearing Conducting by the Commission for non-compliance conducted by LR Global AMC.
ii.Hasan & Associates	11.09.2014	Professional fees for legal services upon Mutual Fund	Tk 7,12,910	In the bill no fund name is mentioned and also purpose is not clear.
Total			**Tk24,12,910**	Allocated among the six funds by Tk. 4,02,151.00 for each FUM of LR Global

As per সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচ্যুয়াল ফান্ড) বিধিমালা, ২০০১, legal expenses are incurred only during pre-launching period for registration and other documents preparation purposes and this expenses is charged in the said fund as per Rule 65 (3) (ক) of সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচ্যুয়াল ফান্ড) বিধিমালা, ২০০১. But in this case we found that the expenses incurred for legal services are not fund specific rather service taken by the Asset Manger and charged equally to all the six funds under the management of LR Global. So, this is also contravention of Rule 65 of সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচ্যুয়াল ফান্ড) বিধিমালা, ২০০১, because there is no such provision of allocating such type of legal expenses to the fund.

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Contravention of Rule 68 for facts under Findings # 05 by Hoda Vasi Chowdhury & Co., Auditor of the Funds and also liable for Contravention of Rule 65.

Although Hoda Vasi Chowdhury & Co. claimed that they suggested LR Global to take opinion of the commission before charging office and administrative expenses. but in the Audit report they did not qualify that LR Global has not taken consent of the Commission before charging "Office and Administrative Expenses." The above activity of the Auditor is contravention of Rule 68(4) of সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচ্যুয়াল ফান্ড) বিধিমালা, ২০০১ because they did not seek explanation of the LR Global whether they have received any opinion from the commission in this respect as according to their suggestion and also not qualified in the audited statement about the lacking of LR global.

Again, policy regarding part/full of the offices and administrative expenses incurred by the LR Global is reimbursed from all the funds under management of LR Global is not disclosed in the Corporate Audited Accounts of LR Global Bangladesh AMC Ltd.

But in the audited Accounts of the funds under management of LR Global, Hoda Vasi Chowdhury & Co., Auditor of all the funds of LR Global did not disclosed in the note the total amount of expenses incurred by LR Global Corporate and subsequently reimbursed from the funds on which proportionate rate. So, this is completely a misleading information provided by the Auditor. We feel that the Auditor conducted this intentionally to keep secret the information from the Regulator, and the stakeholders. In the Audited accounts, their statement is as follows:

"3.9 Office & Administrative Expenses
Office & Administrative Expenses represent expenditure incurred for staff and office & administrative related cost allocated by and reimbursed to LR Global Bangladesg AMC Ltd. proportionately. Office and administrative expenses is charged under the provision of Annexure – 2 of Schedule 6 (Clause 69) of Securities and Exchange Commission (Mutual Fund) Rules, 2001."

It is to be mentionable here that, Hoda Vasi Chowdhury & Co. is primarily liable for charging the expenses of "Office and Administrative Expenses" by the LR Global, because they first gave opinion on 28 October, 2010 to LR Global AMC Ltd. on their request that charging of the above expenses is as per Rules. An Auditor can provide professional opinion within their periphry but such opinion should not be on the legal part where specific regulator exist for that. So, Hoda Vasi Chowdhury & Co. conducted their function beyond their limit specifically in the letter dated 28 October, 2010. Again, giving opinion on the same issue, the same auditor is also auditor those expenses, which is completely a conflict of interest.

So it is a great concern that Fund Manager, LR Global; Trustee of the funds, BGIC; and Auditors of the funds; Hoda Vasi Chowdhury & Co. are equally liable for the non-compliance of Rule 65; and specially, Auditor is liable for contravention of Rule 68 (4) by not disclosing the true state of affairs of the expense charged on the fund.

The Rule 68(4) is as under:

i. ৬৮(৪)নিরীক্ষকের প্রতিবেদনে, অন্যান্যদের মধ্যে, এই মর্মে মতামত থাকিতে হইবে যে, তিনি তাহার সর্বোত্তম জ্ঞান ও বিশ্বাসমতে হিসাব নিরীক্ষণের জন্য প্রয়োজনীয় সকল তথ্য ও ব্যাখ্যা পাইয়াছেন কিনা; এবং ব্যালেন্স শীট, রাজস্ব হিসাব ও নগদান প্রবাহ বিবরণী যথাক্রমে স্কীমের সত্য ও ন্যায্য আর্থিক অবস্থা, হিসাবকালীন সময়ের ঘাটতি বা উদ্বৃত্ত ও নগদ অর্থ প্রবাহ

প্রদর্শন করে কিনা, এবং এই বিধিমালার বিধি ৫৬ এর পঞ্চম তফসিলে বর্ণিত বিনিয়োগের বাধা নিষেধ অনুযায়ী স্কীমের অর্থ বিনিয়োগ করা হইয়াছে কিনা" **Unquote**

যেহেতু, কমিশন উপরোল্লিখিত প্রতিবেদন অনুযায়ী সিকিউরিটিজ আইন পরিপালনে ব্যর্থতার জন্য হুদা ভাসি চৌধুরী এন্ড কোং, চার্টার্ড একাউন্টেন্টস্ এর বরাবরে একটি show-cause-cum-hearing notice সূত্র নং- SEC/Enforcement/2188/2014/665 তারিখ ০৯ নভেম্বর , ২০১৪ ইং প্রেরণ করে এবং ১৬ নভেম্বর , ২০১৪ ইং তারিখে শুনানীর দিন ধার্য্য করে এবং ধার্য্যকৃত তারিখে হুদা ভাসি চৌধুরী এন্ড কোং, চার্টার্ড একাউন্টেন্টস এর প্রতিনিধি উপস্থিত হয়ে ১৬ নভেম্বর, ২০১৪ ইং তারিখের পত্রের মাধ্যমে লিখিত বক্তব্য দাখিল করেন। যাতে অন্যান্যের মধ্যে, নিম্নোক্ত বিষয়গুলির উল্লেখ আছেঃ-

"------- This is with reference to your above referenced letter dated 9 November 2014 wherein the Bangladesh Securities and Exchange Commission (hereinafter referred to as "BSEC") have alleged that we, Hoda Vasi Chowdhury & Co (hereinafter referred to as the "HVC"), have contravened various Rules of the Bangladesh Securities and Exchange Commission (Mutual Fund) Rules, 2001 (hereinafter referred to as the "Rules, 2001"). In that regard, we have analysed the stated allegations and provide herein our response to the allegations herein below:

Allegation 1: HVC stated in their opinion to LR Global Bangladesh Asset Management Company (hereinafter referred to as "LR Global") that LR Global can charge 'Office and Administration' expenses from the accounts of the mutual fund contrary to Rule 65 of the Rules, 2001.

1. We would humbly like to point out that as per Rule 65 (3)(kha) of the Securities and Exchange Commission (Mutual Fund) Rules 2001 (the "Rules"), the Fund Manager can recover some specified expenses along with "regular expenses". However, no details of such "regular expenses" have been provided in the Rules.
2. HVC's letter dated 28 October 2010 to LR Global was just to highlight examples of what types of expenses can be part of such "regular expenses". In this letter HVC advised that any expenses charged to the Fund shall be related to the Fund and "reasonable, allocable, verifiable and consistent". HVC also informed LR Global at that time, "any such cost allocation shall not be shifted from one fund to another to avoid restrictions imposed by the Law and BSEC." So the advice given at that time was in effect only reiterating the spirit of Rule 65(Kha) within the peripheral limitation of the profession without creating any conflict of interest between roles as an auditor and advisor.
3. We would also like to draw kind attention to the fact that, in the Sixth Schedule (Rule 69) – Attachment 2: Subject of Revenue Accounts, under the heading Expense and Loss, a number of items have been mentioned which includes amongst other "Office and Administrative Expenses", "Other administrative expenses" etc. However, since the nature of these expenses was not further elaborated/defined therein, HVC issued the letter dated 20 May 2013 to touch base on what may constitute such types of expenses.
4. In our opinion to LR Global dated 20 May 2013, we opined to LR Global that 'Office and Administration Expenses' can be charged in accordance with Rule 65 of the Rules, 2001, read in conjunction with Annexure 2 of Schedule 6 (Rule 69) of the Rules, 2001. As stated earlier it is also our understanding that Rule 65(3)(Kha) would normally allow any Fund related expenses which are approved by the Trustee. In this regard, while rendering our opinions, the Trust Deed has allowed that LR

Global may charge additional ancillary fees. For example, Clause 8.5.4(x) of the Trust Deed between Mercantile Bank Limited and Bangladesh General Insurance Company Limited, which was submitted to the BSEC, provides that the LR Global may charge the Fund all recurring expenses including "expenses incurred for managing the mutual fund". Accordingly, "Office and Administration Expenses", in our opinion fell within the ambit of expenses incurred for managing the mutual fund and was also included in Annexure 2 of Schedule 6 of the Rules, 2001 as a category of allowable deductibles, was an expense that LR Global could charge from the fund.

5. However and notwithstanding our opinion, we clearly instructed LR Global in our opinion dated 20 May 2013 as follows:

> *"..we advise you to obtain BSEC's written consent before charging and allocating a portion of Assets Management Company's expenses to the mutual fund accounts in order to avoid any misunderstanding and difference of opinion thereby non-compliance in future."* (Emphasis added)

Therefore our personal opinion that this deductible expense was unequivocally subject to our observation and recommendation that LR Global should only charge "Office and Administrative Expenses" in accordance with the provisions of the Rules and subject to the fulfilling above conditions including written consent of the BSEC.

6. Moreover, our opinion to LR Global was expressed from an accountancy perspective based on our interpretation of the Rules, Regulations and Trust Deed and given in the capacity as professional advisors. Accordingly, it is submitted that the allegations leveled against us are misplaced and arbitrary and not in contravention with the Rules, 2001.
7. Notwithstanding the foregoing, despite our intentions to the contrary, if our opinion even remotely indicate that we suggested to LR Global that they could charge 'Office and Administrative Expenses' beyond the ambit of the Rules 2001 and the Trust Deed without prior written consent of the BSEC, we would like to express our sincere apology to the BSEC for the aforementioned lack of clarity from our part in our opinion to LR Global dated 20 May 2013.

Allegation 2: HVC has conducted their function beyond their limit by giving legal opinion on 'Office and Administrative Expenses' and then audited those expenses despite the existence of a conflict of interest.

8. Please note that pursuant to Clause 2 of The Bangladesh Chartered Accountants Order, 1973 (President's Order No. 2 of 1973), a member in practice can render professional services or assistances in or about matters of principle or detail relating to accounting procedures, costing techniques or the recording, presentation or certification of financial facts or data. The Order of 1973, or any other law, does not restrict or prohibit a member to any extent from rendering their opinion to their clients on the aforementioned matters. Our professional advice was not legal advice but interpretation of accounting procedures as guidance for our clients, which we are entitled to render under our Charter and The Bangladesh Chartered Accountants Order, 1973 (President's Order No. 2 of 1973), as stated above.

বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন
জীবন বীমা টাওয়ার (১৫, ১৬, ১৭ ও ২১তম তলা), ১০ দিলকুশা বা/এ, ঢাকা-১০০০, বাংলাদেশ।

9. In view of the foregoing, our opinion to LR Global dated 28 October 2010 and 20 May 2013 were guidance rather than any legal advice regarding the Rules 2001. Accordingly, any failure by LR Global to understand the nature of our services, or misinterpretation of our services, and their subsequent misconduct or failure to comply with any applicable laws cannot reasonably render us culpable for such misconduct or non-compliance by LR Global. Responsibility for the aforementioned failure and non-compliance remains exclusively of LR Global.

10. It should be noted as auditors we are not prevented by laws or regulations in rendering advice on accounting procedures, which is what HVC has done in this instance. Furthermore, please note that Clause 4 of the BSEC Notification No. SEC/CMRRED/2006-158/134/Admin/44 dated 7 August 2012 prescribes seven particular services and another BSEC Notification SEC/CMRRCD/2006-158/147/Admin/48 dated 21 July 2013 restricts auditors from certifying corporate governance compliance of listed entities. It is to be noted that none of the said notifications by the BSEC prohibits the auditors from rendering professional opinions to their clients on professional issues falling under the jurisdiction of practicing chartered accountants and when sought for by the clients of the auditors. Accordingly, it is submitted that any such ancillary guidance by us to LR Global does not create any conflict of interest in conducting audit of LR Global.

Allegation 3: HVC is liable for contravention of Rule 68(4) of the Rules, 2001 for not disclosing the true state of affairs of the expenses charged on the fund.

11. Rule 68(4) requires an auditor to express his opinion, to the best of his knowledge, whether he received all documentations material to the audit and whether the accounts and books of the company are reflective of the true financial condition of the company. In that regard, our responsibility is to express an opinion on the financial statements disclosed to us. Under the Bangladesh Standards on Auditing (BSA), we are required to comply with ethical requirements and plan and perform audit to obtain reasonable assurance about whether the financial statements are free from **material misstatements**.

12. In view of the foregoing, it is also pertinent to note that the as per Bangladesh Standards on Auditing there are certain criteria upon which an audit report can be qualified and what is considered as material misstatement. Normally, an amount is considered material if it is above 10% of the profit before taxation and as such charging of such "Office and Administrative Expenses" does not fall within this criteria.

13. Furthermore, in our opinion we did not discover any material misstatements in the 'Office and Administrative Expenses' particularly because such expenses have been charged in the previous years and the Financial Statements have been reviewed and approved by the Fund Manager and Trustees and also submitted to the BSEC disclosing a note that such "Office and Administrative Expenses represent expenditure incurred for staff and office & administrative related cost allocated by and reimbursed to LR Global proportionately. It is being charged under the provision

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of Annexure 2 of Schedule 6 (Clause 69) of Securities and Exchange Commission (Mutual Fund) Rules 2001." However, to the best of our knowledge no objection has been raised earlier on the basis of charging such Office and Administrative Expenses. Accordingly, we humbly submit that HVC did not mislead the regulator nor violated the Rules, 2001.

14. Finally, we would like to humbly submit that we, as auditors of LR Global, have at all material times acted diligently in executing our discretions in accordance with our duties and responsibilities. We have acted lawfully and within the parameters of the discretion legally provided to us in conducting our audit by Rule 68(4) of the Rules, 2001.

We trust that this written explanation will satisfy you and confirm that HVC has not acted in contravention of any rules of the Rules, 2001. If however, any gap or lack of clarity in our Audit Report resulted in causing confusion to the BSEC, we sincerely regret for such lack of clarity and humbly request that all allegations against us be withdrawn."

যেহেতু, হুদা ভাসি চৌধুরী এন্ড কোং, চার্টার্ড একাউন্টেন্টস্ তারিখ ১৬ নভেম্বর , ২০১৪ ইং পত্রের মাধ্যমে উল্লিখিত ব্যর্থতা তথা বিধি বিধান লংঘন সংক্রান্ত অভিযোগ স্বীকার করে যে লিখিত ব্যাখ্যা প্রদান করেছে তা কমিশনের নিকট গ্রহনযোগ্য বলে বিবেচিত হয়নি এবং হুদা ভাসি চৌধুরী এন্ড কোং, চার্টার্ড একাউন্টেন্টস্ এর উক্ত লংঘন ইচ্ছাকৃত;

যেহেতু, সিকিউরিটিজ সংক্রান্ত উল্লিখিত আইন ও উহার অধীন জারিকৃত বিধি-বিধান পরিপালনে হুদা ভাসি চৌধুরী এন্ড কোং, চার্টার্ড একাউন্টেন্টস্ এর উক্তরূপ ব্যর্থতা সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচ্যুয়াল ফান্ড) বিধিমালা ২০০১ এর বিধি ৮২ এবং বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ এর ধারা ১৮ এর অধীন শাস্তিযোগ্য অপরাধ;

যেহেতু, কমিশনের বিবেচনায়, সিকিউরিটিজ আইন পরিপালনে উল্লিখিত ব্যর্থতার জন্য, তথা পুঁজিবাজারের উন্নয়নের পাশাপাশি বাজারের শৃংখলা ও স্বচ্ছতা রক্ষার স্বার্থে হুদা ভাসি চৌধুরী এন্ড কোং, চার্টার্ড একাউন্টেন্টস্‌কে জরিমানা করা প্রয়োজন ও সমীচীন;

অতএব, সেহেতু, কমিশন, উল্লিখিত যাবতীয় বিষয় বিবেচনাপূর্বক, সিকিউরিটিজ ও এক্সচেঞ্জ কমিশন (মিউচ্যুয়াল ফান্ড) বিধিমালা ২০০১ এর বিধি ৮২ এবং বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন আইন, ১৯৯৩ এর ধারা ১৮ এ প্রদত্ত ক্ষমতাবলে হুদা ভাসি চৌধুরী এন্ড কোং, চার্টার্ড একাউন্টেন্টস্ এর উপর ৫ (পাঁচ) লক্ষ টাকা জরিমানা ধার্য্য করল যা অত্র আদেশের তারিখ হতে ১৫ (পনের) দিনের মধ্যে 'বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন' এর অনুকূলে ইস্যুকৃত ব্যাংক ড্রাফট/পে-অর্ডারের মাধ্যমে কমিশনে জমা করতে হবে।

বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশনের আদেশক্রমে,

মোঃ আঃ সালাম সিকদার
কমিশনার

বিতরনঃ
হুদা ভাসি চৌধুরী এন্ড কোং, চার্টার্ড একাউন্টেন্টস্